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Via electronic filing

Marlene H. Dortch
Secretary, Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

RE: CLOSED- CAPTIONING QUALITY - CG DOCKET NO 05-231

Dear Ms. Dortch:

Media Captioning Services, ("MCS") is pleased to offer the following comments in regard to the issue of closed-captioning quality, with specific reference to the ex parte submission dated June 8, 2015, by TDI, Consumer Groups, NCRA, and certain "Captioners." Our viewpoints were not solicited by the above-mentioned stakeholders in regard to this proceeding, although we (and a number of other companies) have an active involvement in the closed- captioning industry providing such services to consumers. Since 1987, MCS has provided approximately 802,000 hours of real-time captioning on news and sports programming for national, regional broadcast and cable entities.

We agree with TDI that previous discussions of the appropriate methodology and metrics for assessing the accuracy of captions have focused on the narrow issue of how quality captioning can be achieved. The filing, dated June 8, 2105 by the above-mentioned stakeholders has noted three areas where the Commission's intervention is both necessary and timely. However, we believe the most important issues impacting on the ability for consumers to achieve quality captioning going forward are: 1. Infrastructure issues- (referenced in the June 8 filing) and 2, the current state of opportunities for individuals, and incentives to enter the captioning profession.

1. The infrastructure issues referenced in the June 8 filing need greater clarification for consumers, video programmers, and the FCC. Since 2006, marking the end of the phase-in period for captioning to 20 hours a day, the primary method for transmitting

captions has been the “plain old telephone line” based on our copper wire infrastructure. In addition, analog phone lines have been the predominant method by which captioners (the majority of which work from their remote/home locations) receive the audio of a video event- broadcast or cable- to enable them to caption a video program in real time. Over the past several years, large communications providers, such as Verizon and ATT, and Comcast, among many others, have deployed high-speed broadband offering phone services based on fiber technologies. The deployment of broadband telephony based on fiber services has accelerated rapidly in the past three years, and major carriers such as ATT and Verizon have announced their intent to retire or remove copper-based services. As copper-based phone networks have been upgraded, or not maintained, the impact on legacy services - - such as delivery of caption data over traditional copper lines - - has been profoundly and negatively affected. Caption data can be adversely affected if routed through switchers, routers, local loops based on fiber broadband technology. Captions may not be properly decoded, or missing, or the connection may drop as data is routed by carriers routing their network traffic through equipment that destroys caption data. Most consumers are unaware of this and, quite often, cannot readily distinguish these issues, understandably believing this may be due to poor captioning by the provider or station.

In fact, an FCC Notice of Proposed Rulemaking (Docket no 14-174) dated November 25, 2014, devoted well in excess of 100 pages on the issue of copper retirement, the impact of such copper retirements on the information delivery market, with scant mention of the impact on legacy services - - specifically, the impact on closed-captioning. This is puzzling, given the discussion by various “stakeholders” on quality metrics for captioning, following the FCC’s release of its Report and Order on Quality in February, 2014. Consumers have been largely unaware of the potential for disruption of captioning, and the potential negative impact such “enhancements, improvements” by major carriers might cause if copper retirements affect the ability of captioners to transmit their captioning data over copper lines, without garbled captions, or other elements which may prevent caption data from being processed accurately.

These infrastructure issues have also not been universally known by individuals in the broadcast and cable industries responsible for captioning, although greater awareness of this issue has been achieved over the past year.

In light of the above-noted technical issues which have had, and will have, an increasingly negative impact on the ability of captioners to provide high-quality captioning, we commend Chairman Wheeler’s recently announced intent to issue Report and Orders to address issues surrounding the impact of replacement of legacy copper networks. We would suggest the Report and Orders ask the following questions with respect to the impact of retirement of legacy copper networks as they impact on the closed-captioning industry:

- a. Solicit comments from programmers/distributors on the percentage of closed-captioning data received over copper phone lines for closed-captioning.
- b. Seek input from employee and independent contractor closed-captioners working remotely from home locations on issues with copper lines, ability to transmit caption data through their local carrier, and responsiveness of carriers to the resolution of issues impacting on captioners' ability to transmit caption data.
- c. Require carriers to provide a six-month notice of their intent to retire copper lines, at a minimum, to individuals and companies who provide closed-captioning services over their copper networks.
- d. Consider comments from caption providers on the need for FCC action requiring such carriers to provide replacement services for copper using IP technologies to individual/company captioning providers that are comparable in price to legacy services, and for such carriers to work with caption providers to enable interoperability of these newer technologies with existing real-time captioning technologies.

These are starting points in the conversation regarding the impact of technology transition from copper lines to broadband networks that will need to be addressed, to avoid disruption in the ability for captioning providers to provide high-quality caption data, and receive high-quality audio for captioning operations. Consumers need to be aware of the significant impact this transition toward ending legacy copper networks may have on the industry's ability to provide high-quality closed captioning.

2. The second major issue impacting on high quality closed-captioning - specifically real-time captioning - is the current state of the closed-captioning industry, and the likelihood of its ability to maintain current levels of captioning. The availability of real-time captioning resources has long been a professed concern of all stakeholders who have submitted comments on closed-captioning in previous FCC solicitations for comments. A major reason stated for the phased-in transition to 20-hour-a-day captioning over a four-year period (from 2002 to 2006) was to enable the pool of available captioners to grow. While the pool of captioners has grown from approximately 300 in 2006 to approximately 1000 currently, compensation for captioners has decreased by over 50%, the captioning industry has consolidated, and opportunities for businesses owned by members of minority groups and women to participate as primary providers of captioning services have significantly decreased. This should be a major concern to consumers, but has not been a focus of previous comments offered by "Captioners" in this matter, for reasons that would become obvious upon review.

Consumers need to be aware of a major study commissioned by the National Court Reporters Association ("NCRA"), "2103 -2014 Court Reporting Industry Outlook Report." The Study was conducted by Ducker Worldwide, a major independent

research firm. The Study key finding with respect to the court reporting industry follows:

- a. By 2018 there will be a critical shortfall of nearly 5,500 court reporting positions.
- b. There are approximately 32,000 stenographic court reporters working in the United States
- c. "The closure of court reporting education programs and the resulting decline in applicants have greatly impacted the number of court reporter certifications granted each year."
- d. "Currently court reporters who work primarily as captioners account for fewer than 1,000 of the total court reporter market, or approximately 2 percent of the freelance market."
- e. "Ducker still predicts that approximately 5,000 to 5,500 new reporters will retire over the next years."
- f. The number of new entrants over the next 5 years will be 1,500. The differential in supply in 2018 (27,700) vs. demand (33,200) will create 5,500 opportunities.

What is not stated, in our opinion, is the more than likely significant, negative impact on the ability of the captioning industry to maintain and/or attract a sufficient number of individuals to provide high-quality closed captioning. Real-time closed-captioning requires a skill level that only a small percentage- 2 percent- of court reporters achieve. They require the best and brightest talent. Is it likely that individuals training to become proficient court reporters will gravitate to the captioning segment of the industry? We do not believe so for the following reasons:

Since 2006, the real-time closed-captioning industry has consolidated, caused by the acquisition of small captioning companies by more dominant companies, purchasing of captioning services by media companies which favor or tend to promote the use of "dominant captioning companies" who will use their power, if necessary, through horizontal and vertical integration in different captioning markets, to achieve business. The contraction in the captioning market has substantially reduced employment opportunities and incentives for the best and the brightest to join the industry, particularly in markets such as New York, California, and Texas, among others, where higher-paying court reporting opportunities exist.

In our opinion, the most talented new entrants into the captioning field, and individuals considering a move from freelance reporting and official reporting, will not choose to enter the captioning industry, given the compensation levels for captioners, fewer employment choices among companies, and the ability to find more lucrative employment in other sectors of the court reporting industry.

A major reason for this problem is the dysfunctional state of the competitive marketplace for captioning services.

The FCC has conducted, on an annual basis for the past 16 years, an exhaustive report on the Status of Competition in the video marketplace. This exhaustive report considers the regulatory and market conditions affecting competition, analyzing issues such as horizontal concentration and vertical integration which affect competition and, therefore, the availability of services in the marketplace. While these issues in the video marketplace are complex and beyond the scope of discussion in this submission, similar issues are impacting on the evolution of the closed-captioning industry. The FCC understands the importance of maintaining a competitive, functional marketplace, and also the importance of providing meaningful opportunities for businesses owned by members of minority groups and women. The FCC has expressed this interest in the forthcoming spectrum auction. Consumers need to be concerned about the supply/demand issues noted above, and reasons why there could be a major, negative impact on the supply of highly skilled captioners capable of providing high-quality captioning. Consumers need to understand that the failure of many video programmers - not all, since there are significant exceptions - to provide meaningful opportunities for minority/woman-owned businesses have contributed to disincentives for talented individuals to enter, and remain in the captioning industry. This is a major, if not the most significant factor, for the competitive imbalances in the industry.

We believe the FCC knows the importance of a functional, competitive industry for the consumer - that is why it, presumably, expends so much time, effort, and resources in understanding the issues and assessing on an annual basis the market for video programming services. In order for Deaf and hard of hearing consumers to realize the benefit of the FCC's efforts over the past 10 years to quantify captioning quality metrics and best practices, culminating in the FCC Report and Order on Quality, MCS believes it is essential that the FCC commence a similar inquiry into the competitive structure of the closed-captioning industry.

We are requesting the Chairman initiate a separate Report and Order, or Notice of Inquiry, to examine issues of competition in the closed-captioning industry, using the same marketplace metrics used in the Annual video competition report. Consumers need to understand how their captioning services are being delivered, and issues affecting the captioning industry. For Deaf and hard of hearing viewers, the provider of captioning services should be as important as the variety of programming, since captioning is their main source of access to video programming. Consumers, if they are concerned about accessibility to high-quality captioning in the future, need to know how their access through captioning is being provided to support those video programmers, broadcast and cable, who currently provide meaningful opportunities to minority and woman-owned businesses. By meaningful participation, we mean captioning business, not merely participation in RFPs

submitted by smaller companies to lower the prices charged by the existing vendors of certain media groups.

We urge the Commission to require in future mergers in the video industry that meaningful opportunities for minority/woman-owned businesses in closed-captioning be provided as a condition of merger approval. Also, we urge the Chairman to review the ex parte comments MCS submitted in 2013 to the FCC on the matter of anticompetitive practices in the captioning industry, which inexplicably have not received further attention.

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